

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM

October 31, 1990

TO: All Regional Directors

Robert E. Allen, Associate General Counsel  
Division of Enforcement Litigation

Harold J. Datz, Associate General Counsel  
Division of Advice

Joseph E. DeSio, Associate General Counsel  
Division of Operations-Management

FROM: Jerry M. Hunter, General Counsel

SUBJECT: Information on EAJA Cases

Because EAJA claims can arise at various stages of case processing and involve different offices within the Agency, 1/ there is no central place where information concerning all EAJA claims is available. So that we will be able to determine, on a current basis, the number, type, and status of claims, as well as our potential liability, we have established the following system for acquiring and maintaining information on EAJA claims on a continuous basis.

On the first working day of each month, the appropriate office should immediately forward to Assistant General Counsel Eugene L. Rosenfeld, Division of Operations-Management, the following information on EAJA claims filed that month:

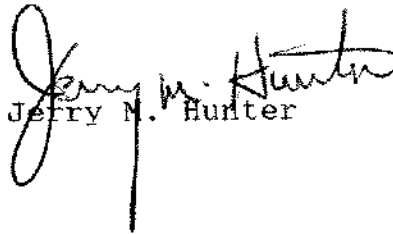
1. Case Name and Number.
2. EAJA issues involved.
3. The amount of the EAJA claim.
4. An explanation concerning the likelihood of success in defending the EAJA claim.
5. Status of case.

1/ See Attachment A.

In addition, the monthly report should describe the status of pending EAJA cases.

This memorandum supersedes the unnumbered memorandum sent to you dated July 30, 1990. All previous EAJA guidelines and instructions, including those concerning the transmission of documents to Washington continue unchanged. Further, for example, the Regional Offices are to continue to contact the Division of Advice concerning EAJA cases they wish to settle. This would also be the type of case status information the Regions should also transmit to their Assistant General Counsel.

The first monthly report should be sent December 3 and that report will include all pending cases.

  
Jerry M. Hunter

Attachment

Attachment A

EAJA claims can be filed in the following circumstances, and are served upon the offices named below.

<u>Event</u>	<u>Office Served With EAJA Claim</u>
1. GC loses before ALJ or Board. EAJA claim filed with Board.	1. Region
2. Board loses 10(j) or 10(1) in district court. EAJA claim filed with district court.	2. Region
3. Board loses 10(j) or 10(1) in circuit court. EAJA claim filed with circuit court.	3. Division of Advice
4. Board finding of violation reversed in circuit court. EAJA claim filed with circuit court.	4. Division of Enforcement Litigation
5. Board position in "miscellaneous litigation" case, e.g. <u>Nash-Finch</u> suit is lost in district court or circuit court. EAJA claim filed with appropriate court.	5. Division of Enforcement Litigation
6. Board denies EAJA claim, and an appeal is filed in circuit court.	6. Division of Enforcement Litigation